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Thailand

Sanitary/Phytosanitary/Food Safety

Proposed New Regulation on Food Labeling

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Report Highlights:

The Thai Ministry of Public Health (MOPH) is developing new food labeling requirements in order to tackle the problem of obesity in children. U.S. exports of items potentially affected by the rule (potato chips, corn snack foods, starch snack foods, and wafers) exceed US\$ 5 million per year. The notification as presently written allows product coverage to be easily expanded, which could affect a broader range of U.S. exports in the future.

Includes PSD Changes: No
Includes Trade Matrix: No
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SUMMARY	3
Introduction	4
Process for Approval	4
Possible Trade Impact	5
Reactions from Thai Industries	5
Translation of the Notification Draft	6

SUMMARY

The Thai Ministry of Public Health (MOPH) is developing new food labeling requirements in order to tackle the problem of obesity in children. According to the draft ministerial notification, the MOPH will labeling which contains a statement "Children Should Limit Consumption" and other specified nutritional label and logo for the following products: 1) potato chips; 2) corn chips; 3) extruded snack foods; 4) biscuits or crackers; 5) assorted wafers; and 6) other food products as specified by the Food and Drug Administration (FDA) with an approval of the Food Board. Currently, U.S. exports of these items exceed US\$ 5 million per year. The notification as presently written allows product coverage to be easily expanded, which could affect a broader range of U.S. exports in the future.

Introduction

According to the Ministry of Public Health (MOPH), there is growing concern among human health policy makers and nutritionists about the changing lifestyle of Thai people. Thai eating habits, especially for children, are changing. The Ministry's research indicates that, in addition to a malnutrition problem, the number of obese children is increasing significantly. The MOPH attributes the problem to excessive consumption of fast foods and snack foods.

In an effort to tackle this problem, the Food and Drug Administration (FDA), an agency of MOPH, prepared a draft Ministerial Notification on Labeling Requirement for Some Snack Foods in September 2006. The notification indicates the reason for the rule is to provide nutritional value information to consumers and to prevent malnutrition in children caused by consuming some food products. Reportedly the MOPH aims to enforce this new rule by December 5, 2006 to celebrate the King's Birthday and the 60th Anniversary of His Accession to the Throne.

According to the proposed ministerial notification draft, the MOPH will require labeling which contains a statement "Children Should Limit Consumption" and other specified nutritional label and logo for the following products: 1) potato chips; 2) corn chips; 3) extruded snack foods; 4) biscuits or crackers; 5) assorted wafers; and 6) other food products as specified by the Food and Drug Administration (FDA) with an approval of the Food Board.

Process for Approval

As the MOPH intends to enact this rule as a "Ministerial Notification," the Minister of Public Health has the authority to endorse the notification without seeking the prior approval of the Cabinet. Following are the steps in processing this legislation:

- 1) FDA sets up the working group for drafting regulation. Once the draft was completed, it is forwarded to Food Sub-Committee under the MOPH for review. When the Sub-Committee approves the draft, the FDA arranges meeting(s) with some companies or industrial organizations, which are potentially affected parties. The FDA considers this process of hearing comments from these meetings as public hearings. A second review by the Sub-Committee will be conducted;
- 2) The FDA Food Board, consisting of food safety experts from both FDA offices and non-FDA institutes or organizations, reviews the draft forwarded from the FDA Sub-Committee for approval;
- 3) Once approved, the final notification will be prepared and sent to the Minister of Public Health for endorsement. In the meantime, the FDA will notify the National Bureau of Agricultural Commodity and Food Standards (ACFS), a national contact point office for international SPS issues. ACFS will be responsible for the process of WTO notification.
- 4) The endorsed notification will be forwarded to Office of Royal Gazette for printing the notification in the Royal Gazette for official announcement;
- 5) Based on the notification draft, this notification is scheduled to be in place 90 days after it was officially proclaimed in the Royal Gazette. According to a Thai FDA official, the FDA has not decided to provide a grace period on this rule yet. If any, the grace period for rule enforcement is one year.

At the moment, the FDA has not completed the first stage. The draft was still under the public hearing process. Reportedly the Federation of Thai Industries (FTI), an influential association of Thai industrial enterprises, which was notified by the FDA for comments and feedback, will submit the FTI position on the rule to the FDA by the end of October 2006. The process has been delayed somewhat because the Thai FDA does not yet have a new

Secretary General and it is unlikely that the acting Secretary General will move forward on this issue.

Possible Trade Impact

Currently, U.S. exports of items potentially affected by the rule (potato chips, corn snack foods, starch snack foods, and wafers) exceed US\$ 5 million per year. However, the notification as presently written allows product coverage to be easily expanded and could more dramatically affect U.S. exports in the future.

Import Table for Products Potentially Affected by the New FDA Regulation							
(Dollar value; in thousand)							
Item	Country	2003		2004		2005	
		Value	Market Share (%)	Value	Market Share (%)	Value	Market Share (%)
Fresh Potato	USA	120.69	4	214	6	-	-
	Non-USA	3,140.38	96	3,138	94	3,379	100
	Total	3,261.07	100	3,352	100	3,379	100
Potato Chip	USA	3,621.68	55	3,397	49	3,828	51
	Non-USA	2,932.58	45	3,598	51	3,624	49
	Total	6,554.26	100	6,995	100	7,452	100
Starch Snack	USA	429.55	3	441	3	715	4
	Non-USA	13,765.04	97	15,867	97	19,542	96
	Total	14,194.60	100	16,308	100	20,258	100
Corn Snack	USA	213.76	4	316	5	593	6
	Non-USA	5,442.02	96	6,245	95	8,965	94
	Total	5,655.78	100	6,561	100	9,557	100
Wafer	USA	0.45	0	1	0	3	0
	Non-USA	4,045.67	100	4,632	100	10,342	100
	Total	4,046.12	100	4,632	100	10,345	100
Import from USA in Total		4,386.13	13	4,369.22	12	5,139.36	2

Reactions from Thai Industries

The Federation of Thai Industries (FTI) representing 32 firms agrees in principle to support the FDA effort to broaden awareness of health and nutritional challenges among Thai consumers, especially children. However, FTI has also expressed some concerns. They argue the list of selected food categories is not accurate and non-scientific. They believe the Multiple Traffic Light (MTL) model for labeling is flawed, causes consumer confusion, discourages the industry from developing better-for-you alternatives, and limits individual choices.

The FTI is proposing the Thai FDA adopt a voluntary nutrition information panel (NIP) label or Recommended Daily Intake (RDI) model, instead of the MTL model. The FTI is confident that the RDI scheme will be an effective way to empower consumers to choose a healthier lifestyle and improve their diets.

Translation of the Notification Draft

(Translation)

(Draft)

Notice of Ministry of Public Health

(No.....) A.D.

On Labeling Requirement for Some Snack Foods

In order to provide nutritional value information to consumers and to prevent malnutrition in children caused by consuming some food products,

By virtue of Sections 5 and 6 of the Food Act of 1979, which is a law with some provisions on limiting personal rights and freedom, and of Section 29 as well as Sections 35, 39, 48 and 50 of the Constitution of the Kingdom of Thailand, the Minister of Public Health is authorized under these provisions to announce that:

Clause 1. The following snack foods are subject to displaying a nutrition label:

- (1) Potato chips
- (2) Corn chips
- (3) Extruded snack foods
- (4) Biscuits/crackers
- (5) Assorted wafers
- (6) Other food products as specified by the Food and Drug Administration (FDA) with an approval of the Food Board

Clause 2. The labeling as indicated in Clause 1 must comply with the Notification of Ministry of Public Health on Labeling and Specific Labeling. It also must contain a statement "Children Should Limit Consumption" in red-colored letters, 5 mm sized, and in a white-framed block.

Clause 3. The labeling as indicated in Clause 1 must comply with the following guidelines:

- (1) In the case that the food product contains cholesterol no less than 2 mg per unit of consumption, a brief labeling will be required based on item (1.2) in the List No. 1 on Format and Conditions on Label in the Ministerial Notification on Nutritional Labeling and Additional Cholesterol Labeling. However, a detailed labeling is voluntarily optional.
- (2) In the case that the product contains nutritional reference or claims for commercial promotion purpose or targeting consumer groups, a detailed labeling will be required based on item (1.1) in the List No. 1 on Format and Conditions on Label in the Ministerial Notification on Nutritional Labeling and Additional Cholesterol Labeling.

Clause 4. Labeling of symbol on food nutrition facts as indicated in Clause 1 about fat, sugar and sodium should be in the following format and conditions:

(1) Format of nutrition symbol.



The label of the symbol and letters must be clear in the block and color as in (2).

(2) Criteria for color label display of the nutrition symbols are as follows:

Food Nutrient	Symbol of Color		
	Green (Maximum Content) *	Yellow (Between Content) *	Red (Minimum Content) *
Energy (Kcal)	150	More than 150- 200	200
Fat (g)	2.5	More than 2.5-5	5
Sugar (g)	12	More than 12- 24	24
Sodium (mg)	100	More than 100- 200	200

*Per one consumption unit as specified in the nutrition information block according to clause 3.

Clause 5 Any producer or importer of the food product as indicated in Clause 1 must comply with this Notification within one year after the Notification is officially effective. The old label can be valid for a period of time, but no more than one year after the Notification is officially effective.

Clause 6. This Notification will be effective 90 days after the Notification will be published in the Royal Gazette.

Announce on the date of -----

End of Report.